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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 BRENDAN DUNCKLEY,

10 Petitioner,

11 vs.

12 STATE OF NEVADA, et al.,

13 Respondents.
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Case No. 3:13-cv-00393-RCJ-VPC

ORDER

15 Petitioner has submitted an application to proceed in forma pauperis (#1) and a petition for a
16 writ of habeas corpus pursuant to 28 U.S.C. § 2254. The application is moot because petitioner has
17 paid the filing fee (#4). The court has reviewed the petition pursuant to Rule 4 of the Rules
18 Governing Section 2254 Cases in the United States District Courts. The court will serve the petition
19 upon respondents for a response.

20 Petitioner has submitted a motion for appointment of counsel. Whenever the court
21 determines that the interests of justice so require, counsel may be appointed to any financially
22 eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district
23 court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to
24 articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v.
25 Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas
26 proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not
27 separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt, 718 F.2d
28 at 954. After reviewing the petition, the court finds that appointment of counsel is not warranted.

1 Petitioner has submitted a motion to extend prison copywork limit. Petitioner does not have
2 a right to free photocopying. Johnson v. Moore, 948 F.2d 517 (9th Cir. 1991). However, a court
3 can order a prison to provide limited photocopying when it is necessary for an inmate to provide
4 copies to the court and other parties.

5 The court is not convinced that even limited photocopying is necessary at this time. In
6 addition to the indigent inmate photocopying allowance, Nevada prisons also make carbon paper
7 available for copies. Administrative Regulation 722. Petitioner has not alleged how carbon paper is
8 inadequate for any pleadings, motions, or responses which he might file and serve. Furthermore,
9 pursuant to Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts,
10 respondents need to provide with their answer appellate briefs and orders, as well as pertinent
11 portions of the transcripts. If, after respondents file and serve their answer or other response with
12 their supporting exhibits, it becomes necessary for petitioner to file and serve his own exhibits, the
13 court will then entertain a motion for petitioner to exceed the prison's limit on indigent photocopy
14 work.

15 Petitioner has submitted a motion for judicial action on petition (#7). This order makes the
16 motion moot.

17 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (#1) is
18 **DENIED** as moot.

19 IT IS FURTHER ORDERED that the clerk of the court shall file the petition for a writ of
20 habeas corpus pursuant to 28 U.S.C. § 2254.

21 IT IS FURTHER ORDERED that the clerk of the court file the motion for appointment of
22 counsel.

23 IT IS FURTHER ORDERED that the motion for appointment of counsel is **DENIED**.

24 IT IS FURTHER ORDERED that the clerk of the court file the motion to extend prison
25 copywork limit.

26 IT IS FURTHER ORDERED that the motion to extend prison copywork limit is **DENIED**.

27 IT IS FURTHER ORDERED that the motion for judicial action on petition (#7) is **DENIED**
28 as moot.

1 IT IS FURTHER ORDERED that the clerk shall add Catherine Cortez Masto, Attorney
2 General for the State of Nevada, as counsel for respondents.

3 IT IS FURTHER ORDERED that the clerk shall electronically serve upon respondents a
4 copy of the petition and this order. In addition, the clerk shall return to petitioner a copy of the
5 petition.

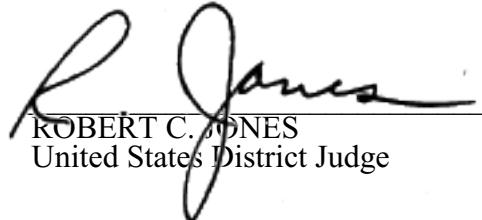
6 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from the date
7 on which the petition was served to answer or otherwise respond to the petition. If respondents file
8 and serve an answer, then they shall comply with Rule 5 of the Rules Governing Section 2254 Cases
9 in the United States District Courts, and then petitioner shall have forty-five (45) days from the date
10 on which the answer is served to file a reply.

11 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a
12 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments
13 that are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits
14 in the attachment. The hard copy of any additional state court record exhibits shall be
15 forwarded—for this case—to the staff attorneys in Las Vegas.

16 IT IS FURTHER ORDERED that henceforth, petitioner shall serve upon respondents or, if
17 appearance has been entered by counsel, upon the attorney(s), a copy of every pleading, motion or
18 other document submitted for consideration by the court. Petitioner shall include with the original
19 paper submitted for filing a certificate stating the date that a true and correct copy of the document
20 was mailed to the respondents or counsel for the respondents. The court may disregard any paper
21 received by a district judge or magistrate judge that has not been filed with the clerk, and any paper
22 received by a district judge, magistrate judge, or the clerk that fails to include a certificate of service.

23 Dated: August 26, 2014.

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ROBERT C. JONES
United States District Judge